

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-009298

10/04/2011

HONORABLE MARIA DEL MAR VERDIN

CLERK OF THE COURT  
L. Firriello  
Deputy

MARK GORZEN

GREGORY G MCGILL

v.

MARC LOTENBERG, et al.

MARC LOTENBERG  
7917 WILLOUGHBY AVE, # 8  
WEST HOLLYWOOD CA 90046

WILLIAM H DOYLE  
JOHN FRIEDEMANN  
CHRISTOPHER M GOODMAN  
944 MEDIA INC  
C/O BILL GARR, VP  
4253 N. SCOTTSDALE RD., STE. 200  
SCOTTSDALE AZ 85251-3931  
944 MAGAZINE  
C/O BILL GARR  
4253 N. SCOTTSDALE RD., STE. 200  
SCOTTSDALE AZ 85251-3931  
M L MEDIA INC  
C/O BILL GARR  
4253 N. SCOTTSDALE RD., STE. 200  
SCOTTSDALE AZ 85251  
GIL SHUGA

Courtroom OCH-303

TRIAL MINUTE ENTRY  
DAY 1

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-009298

10/04/2011

FILED: Deposition of Harry Friedlander  
Deposition of Marc Lotenberg Volume II  
Deposition of Nakoolani L. Gorzen  
Deposition of Mark Gorzen, Volumes I, II and III

10:40 a.m. This is the time set for trial to Jury. Plaintiff Mark Gorzen is present and represented by counsel Gregory G. McGill. Also present is paralegal Dale Grabois. Defendant Sandra E. Portney is represented by counsel William H. Doyle and Dwayne Ross.

Court Reporter, Hilda Lopez, is present.

Discussion held re joint statement to be read to jury panel.

10:42 a.m. Court stands at recess.

10:53 a.m. Court reconvenes with the parties and respective counsel present.

Court Reporter, Hilda Lopez, is present.

Counsel advise that they have reached an agreement as to the joint statement to be read to the jury panel and Mr. Doyle reads the statement into the record.

Discussion is held re Draft of Preliminary Jury Instructions.

Argument is heard re Defendant's Motion *in Limine* No. 3.

11:10 a.m. Marc Lotenberg is present.

**IT IS ORDERED** granting in part Defendant's Motion *in Limine* No. 3. Plaintiff indicates that he is not seeking a claim for fraudulent concealment. Plaintiff may not mention the term "fraudulent concealment" but may use the term fraudulent. Plaintiff's counsel may not mention punitive damages in opening statement, and the Court will defer ruling on the issue of punitive damages until a later time.

Argument is heard re: Defendant's Motion *in Limine* No. 4.

For the reasons stated on the record,

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**IT IS ORDERED** granting Defendant's Motion *in Limine* No. 4. Plaintiff's counsel is barred from introducing any testimony as to the settlement agreement between Ms. Gorzen and Ms. Portney.

Discussion is held re Mr. Lotenberg's need to retain counsel as a non-party at fault.

Court advises Mr. Lotenberg that he may retain counsel in conjunction with his witness testimony and may also speak with Mr. McGill, Mr. Doyle and Mr. Ross if he desires.

11:45 a.m. Mr. Lotenberg leaves the courtroom pursuant to the rule of exclusion of witnesses.

Discussion is held re exhibits.

11:50 p.m. Court stands at recess.

Prior to trial, Plaintiff's exhibits 1-18 and Defendant's exhibits 19-25 are marked for identification. Counsel stipulate to the admission of exhibits 1, 2, 3, 4, 7, 8, 9, 10, 12 and 13.

1:25 p.m. Plaintiff Mark Gorzen is present and represented by counsel Gregory G. McGill. Also present is paralegal Dale Grabois. Defendant Sandra E. Portney is present and represented by counsel William H. Doyle, Dwayne Ross and Brian Houser.

The jury panel is present.

Jury panel is sworn.

*Voir dire* of the jury panel

Juror 20 is excused.

2:45 p.m. Jury panel leaves the courtroom. Court remains in session.

Discussion held re excusals for hardship.

Upon stipulation of Court and counsel the following jurors are excused: 2, 6, 9, 10, 15, 21, 28, 30, 32 and 33.

3:00 p.m. Court stands at recess.

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3:15 p.m. Court reconvenes with the parties and respective counsel present. The jury is not present.

Court Reporter, Hilda Lopez, is present.

Discussion held re additional *voir dire* questions.

3:20 p.m. The jury panel is present.

*Voir dire* continues.

3:51 p.m. Jury leaves the courtroom, with the exception of juror 35. Court remains in session. At the request of juror 35, the short statement read this morning is re-read for this juror.

Juror 35 leaves the courtroom. Court remains in session.

Discussion is held re additional strikes for cause.

Juror 8 is stricken for cause.

Over the objection of Plaintiff's counsel, Juror 13 is stricken for cause.

Juror 23 is stricken for cause.

Juror 25 is stricken for cause.

Juror 29 is stricken for cause.

Juror 17 is brought into the courtroom to discuss her reporting a conversation she overheard about another juror.

4:15 p.m. Court stands at recess. Counsel are left to consider their peremptory strikes.

4:37 p.m. Court reconvenes with the parties and respective counsel present. The jury panel is present.

Court Reporter, Hilda Lopez, is present.

Nine (9) jurors are selected and sworn to act as trial jurors in this cause.

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FILED: Jury List

4:41 p.m. Jury is excused until October 5, 2011 at 9:30 a.m. Court remains in session.

Discussion is held re opening statements and anticipated witnesses for October 5, 2011.

4:44 p.m. Court stands at recess.

ALERT: Effective September 1, 2011, the Arizona Supreme Court Administrative Order 2011-87 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.